

ENGROSSED SENATE
BILL NO. 1224

By: Robinson of the Senate

and

Seikel of the House

[Oklahoma Children's Code and the Child Death Review
Board - near deaths of children - procedures -
confidential information - appointment - deprived
children - parental rights - adoption - effective
date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 1991, Section 404.1, as
last amended by Section 20, Chapter 389, O.S.L. 1997 (10 O.S. Supp.
1997, Section 404.1), is amended to read as follows:

Section 404.1 A. 1. The Department of Human Services shall
require a criminal history investigation, conducted by the Oklahoma
State Bureau of Investigation, for any person making application to
establish or operate a child care facility prior to the issuance of
a license to operate such facility.

2. a. Every child care facility shall arrange, prior to
employment, for a criminal history investigation to be
conducted by the Oklahoma State Bureau of
Investigation for any person to be employed by the
child care facility.

b. In addition, any child care facility, licensed or
approved pursuant to the Oklahoma Child Care
Facilities Licensing Act, and located in a private
residence, shall arrange for a criminal background

investigation for any adult residing in the child care facility. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the private residence.

3. a. Any child care facility, contracting with any person for foster family home services or in any manner for services for the care and supervision of children, shall also, prior to executing a contract, arrange for a criminal history investigation for the contractor conducted by the Oklahoma State Bureau of Investigation.
- b. Any child care facility contracting with any person for foster family home services shall arrange for a criminal background investigation for any adult residing in the foster family home. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the residence.
- c. Any child care facility contracting with any person for foster family home services shall request the Office of Juvenile Justice for a juvenile justice information system review pursuant to Sections 7302-9.6 and 7302-3.8 of this title for any child over the age of thirteen (13) years residing in the foster family home, other than a foster child, or who subsequently moves into the private residence. As a condition of contract, the child care facility shall obtain the consent of the parent or guardian of the child for such review.

4. If the applicant planning to establish or operate a child care facility, or an employee or contract employee of the child care

facility, or an adult residing in a private residence where a child care facility is located, or the contractor of the child care facility has resided in Oklahoma for less than one (1) year, the criminal history investigation shall also be obtained from such person's previous state of residence.

B. 1. Prior to contracting with a foster family home for placement of any child who is in the custody of the Department of Human Services, the Department shall arrange for a criminal history investigation, conducted by the Oklahoma State Bureau of Investigation, for such foster family applicant and for any adult residing in such foster family home. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the residence.

2. The Department shall provide for a juvenile justice information system review pursuant to Section 7302-3.8 of this title for any child over the age of thirteen (13) years residing in a foster family home, other than the foster child, or who subsequently moves into the private residence.

C. The Commission for Human Services shall promulgate rules to identify circumstances when a criminal history investigation for an applicant or contractor, or any person over the age of thirteen (13) years residing in a private residence in which a child care facility is located, shall be expanded beyond the investigation conducted by the Oklahoma State Bureau of Investigation or as otherwise provided pursuant to this section.

D. 1. The following persons shall not be required to obtain a criminal history investigation pursuant to this section:

- a. a parent volunteer who transports children on an irregular basis, and

b. a child of a day care center or family child care home operator who became an adult during continuous residence at the licensed or approved facility.

2. These exemptions shall not preclude the Department from requesting a criminal history investigation or investigating criminal, abusive or harmful behavior of such persons, if warranted.

E. A conviction for a crime shall not be an absolute bar to employment, except as provided in subsection G of this section, but shall be considered in relation to specific employment duties and responsibilities.

F. 1. Information received pursuant to this section by an owner or administrator of a child care facility shall be maintained in a confidential manner in a file that is separate from employment records. The information may be transmitted to the Department for child care facility licensing purposes.

2. Whenever an applicant is subsequently employed by or contracts with a child care facility, the information received pursuant to a criminal history investigation shall not be made a part of that individual's personnel or contract records. Such information, along with any other information relevant to the individual's ability to perform tasks that require direct contact with children, may be released to another child care facility in response to a request from the child care facility that is considering employing or contracting with the individual.

3. Requirements for confidentiality and record keeping with regard to the information shall be the same for the child care facility receiving the information in response to a request as those provided for in paragraph 1 of this subsection for the child care facility releasing such information.

G. 1. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall include a search of

Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act.

2. a. It shall be unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children or to reside in a child care facility and for any employer who offers or provides services to children to knowingly and willfully employ or contract with, or allow continued employment of or contracting with any person who is required to register pursuant to the Sex Offenders Registration Act. Any person required to register pursuant to the Sex Offenders Registration Act who violates any provision of this act shall, upon conviction, be guilty of a felony. In addition to any other punishment, the violator shall be punishable by a fine of not more than Five Thousand Dollars (\$5,000.00).
- b. Upon a determination by the Department of any violation of the provisions of this section, the violator shall be subject to and the Department may pursue:
 - (1) an emergency order,
 - (2) license revocation, denial or nonrenewal,
 - (3) injunctive proceedings,
 - (4) an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00), and
 - (5) referral for criminal proceedings.
- c. In addition to the penalties specified by this section, the violator may be liable for civil damages.

3. Approval of a foster home shall not be granted in any case in which:

- a. an investigation reveals a felony conviction for child abuse or neglect, spousal abuse, a crime against children, including child pornography, or a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, or
- b. a record check reveals a felony conviction for physical assault, battery, or a drug-related offense and the felony was committed within the past five (5) years.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1150.2, as last amended by Section 1, Chapter 223, O.S.L. 1995 (10 O.S. Supp. 1997, Section 1150.2), is amended to read as follows:

Section 1150.2 A. There is hereby re-created until July 1, 2000, in accordance with the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, the Child Death Review Board within the Oklahoma Commission on Children and Youth. The Board shall have the power and duty to:

1. Conduct case reviews of deaths and near deaths of children in this state;
2. Develop accurate statistical information and identification of deaths of children due to abuse and neglect;
3. Improve the ability to provide protective services to the surviving siblings of a child or children who die of abuse or neglect and who may be living in a dangerous environment; ~~and~~
4. ~~Improve~~ Examine and improve policies, procedures and practices within the agencies that serve children, including the child protection system;
5. Review the extent to which the state child protection system is coordinated with foster care and adoption programs, and evaluate whether the state is efficiently discharging its child protection

responsibilities under the Child Abuse Prevention and Treatment Act State plan; and

6. Establish a minimum of two local child death review boards in the state and appoint to such boards volunteer members who are broadly representative of the community in which such boards are established. Such appointed members shall have expertise in the prevention and treatment of child abuse and neglect, and shall include, but not be limited to, children's attorneys, child advocates and court-appointed special advocate (CASA) volunteers, parent or consumer representatives, health and mental health professionals, prosecutors, law enforcement officials, and others as representative of the Child Death Review Board. The local boards shall have such duties and responsibilities as the Child Death Review Board shall designate, including the examination of policy and procedures within the agencies that serve children, and shall review cases assigned by the Board in the local board's geographical area. Each local board established shall meet not less than once every three (3) months. The Board shall, subject to approval of the Oklahoma Commission on Children and Youth, promulgate such other rules as necessary for the implementation and administration of the local boards.

B. In carrying out its duties and responsibilities the Board shall:

1. Establish criteria for cases involving the death or near death of a child subject to specific, in-depth review by the Board. As used in this section, the term "near death" means a child is in serious or critical condition, as certified by a physician;

2. Conduct a specific case review of those cases where the cause of death or near death is or may be related to abuse or neglect of a child;

3. Establish and maintain statistical information related to the deaths of children, including, but not limited to, demographic and medical diagnostic information;

4. Review the policies, practices, and procedures of the child protection system and the extent to which such system is coordinated with foster care and adoption programs, and make specific recommendations to the entities comprising the child protection system for actions necessary for the improvement of the system;

5. As necessary and appropriate, for the protection of the siblings of a child who dies and whose siblings are deemed to be living in a dangerous environment, refer specific cases to the Department of Human Services or the appropriate district attorney for further investigation;

6. Request and obtain a copy of all records and reports pertaining to a child whose case is under review including, but not limited to:

- a. the medical examiner's report,
- b. hospital records,
- c. school records,
- d. court records,
- e. prosecutorial records,
- f. local, state, and federal law enforcement records, including, but not limited to, the Oklahoma State Bureau of Investigation (OSBI),
- g. fire department records,
- h. State Department of Health records, including birth certificate records,
- i. medical and dental records,
- j. Department of Mental Health and Substance Abuse Services and other mental health records,
- k. emergency medical service records, and
- l. Department of Human Services' files.

Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and federal law. Any disclosure of such confidential information by the Board, its local boards, or their members not authorized by law shall be subject to damages, costs and attorney fees;

7. All information, documents and records in possession of the Board shall be confidential and not subject to subpoena or discovery in any civil or criminal proceedings; provided, however, information, documents and records otherwise available from other sources shall not be exempt from subpoena or discovery through those sources solely because such information, documents and records were presented to or reviewed by the Board;

8. Conduct reviews of specific cases of deaths and near deaths of children and request the preparation of additional information and reports as determined to be necessary by the Board including, but not limited to, clinical summaries from treating physicians, chronologies of contact, and second opinion autopsies;

9. Recommend, when appropriate, amendment of the cause or manner of death listed on the death certificate; and

10. Subject to the approval of the Oklahoma Commission on Children and Youth, exercise all incidental powers necessary and proper for the implementation and administration of the Child Death Review Board Act, Section 1150 et seq. of this title.

C. The review and discussion of individual cases of death or near death of a child shall be conducted in executive session and in compliance with the confidentiality requirements of Section ~~846~~ 7005-1.2 of Title ~~24~~ 10 of the Oklahoma Statutes. All other business shall be conducted in accordance with the provisions of the Oklahoma Open Meeting Act, ~~Section 301 et seq. of Title 25 of the Oklahoma Statutes.~~ All discussions of individual cases and any writings produced by or created for the Board in the course of its

remedial measure and recommended by the Board as the result of a review of an individual case of the death or near death of a child, shall be privileged and shall not be admissible in evidence in any proceeding. The Board shall periodically conduct meetings to discuss organization and business matters and any actions or recommendations aimed at improvement of the child protection system which shall be subject to the Oklahoma Open Meeting Act. Part of any meeting of the Board may be specifically designated as a business meeting of the Board subject to the Oklahoma Open Meeting Act.

D. 1. The Board shall submit an annual statistical report on the incidence and causes of death and near death of children in this state during the past calendar year and submit a copy of this report, including its recommendations, to the Governor, the Oklahoma Commission on Children and Youth, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 31 of each year. In addition each local board shall develop an annual report, which shall be available to the public no later than December 31 of each year. The report shall contain a summary of the boards' activities, as well as recommendations of the boards, based upon their activities and findings.

2. The Oklahoma Commission on Children and Youth shall review the report of the Board and, as appropriate, incorporate the findings and recommendations into the annual Commission report and the State Plan for Services to Children and Youth.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1101, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 19, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7001-1.3), is amended to read as follows:

Section 7001-1.3 When used in the Oklahoma Children's Code, unless the context otherwise requires:

1. "Abandoned infant" means a child under the age of one (1) year who has been deserted by the person responsible for the child, and such person has not stated or implied any plans to return for the child;

2. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of Section 7003-3.1 et seq. of this title are supported by the evidence and whether a child should be adjudged to be a ward of the court;

~~2.~~ 3. "Child" means any person under eighteen (18) years of age except any person convicted of a crime specified in Section 7306-1.1 of this title or any person who has been certified as an adult pursuant to Section 7303-4.3 of this title and convicted of a felony;

~~3.~~ 4. "Child in need of mental health treatment" means a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act;

~~4.~~ 5. "Child with a disability" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child or who is regarded as having such an impairment by a competent medical professional;

~~5.~~ 6. "Child-placing agency" means a private agency licensed to place children in foster family homes, group homes, adoptive homes, transitional or independent living programs, or family child care homes or other out-of-home placements~~7.~~ and which approves and monitors such placements and facilities in accordance with the licensing requirements established by the Oklahoma Child Care Facilities Licensing Act;

~~6.~~ 7. "Chronic abuse" means abuse which is repeated or continuing and which is unresponsive to treatment efforts;

8. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation.

Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment, sexual abuse treatment, transitional living, independent living, and other related services and programs;

~~7.~~ 9. "Court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child ~~wherein a juvenile petition has been filed~~ over whom the district court exercises jurisdiction, based on the availability of volunteers, until discharged by the court; provided, however, priority shall be given to cases wherein a juvenile petition has been filed. It shall be the duty and responsibility of the court-appointed special advocate to advocate for the best interests of the child and to assist the child in obtaining a permanent, safe, homelike placement. A court-appointed special advocate shall not have any financial responsibility in any matter relating to a child represented by the court-appointed special advocate;

~~8.~~ 10. "Day treatment" means a nonresidential program which provides intensive services to children who reside in their own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

~~9.~~ 11. "Department" means the Department of Human Services;

~~10.~~ 12. a. "Deprived child" means a child:

- (1) who is for any reason destitute, homeless, or abandoned,

- (2) who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, abuse, cruelty, or depravity on the part of the child's parents, legal guardian, or other person responsible for the child's health or welfare,
- (3) who is a child in need of special care and treatment because of ~~his~~ the child's physical or mental condition including, but not limited to, a child born in a condition of dependence on a controlled dangerous substance, and ~~his~~ the child's parents, legal guardian, or other custodian is unable or willfully fails to provide ~~said~~ such special care and treatment,
- (4) who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of ~~said~~ the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment ~~is~~ shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,
- (5) who is, due to improper parental care and guardianship, absent from school as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if ~~said~~ such child is subject to compulsory school attendance, or

(6) whose parent or legal custodian for good cause desires to be relieved of custody.

- b. (1) Nothing in the Oklahoma Children's Code shall be construed to mean a child is deprived for the sole reason the parent, guardian, or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.
- (2) Nothing contained in this subparagraph shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

The phrase "dependent and neglected" shall be deemed to mean deprived;

~~11.~~ 13. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a child adjudged to be a ward of the court;

~~12.~~ 14. "Emergency custody" means court-ordered custody of a child prior to adjudication of the child;

~~13.~~ 15. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings used for the lawful custody and treatment of children;

~~14.~~ 16. "Foster care" or "foster care services" means continuous twenty-four-hour care and supportive services provided for a child, in foster placement, while the child needs foster care;

~~15.~~ 17. "Foster child" means a child placed in foster placement;

~~16.~~ 18. "Foster family" means all persons living in a foster family home, other than a foster child;

~~17.~~ 19. "Foster family home" means the private residence of a family which provides foster care services to a child. Such term shall include a foster family home, a therapeutic foster family home, the home of a relative, or a kinship care home;

~~18.~~ 20. "Foster parent" means any individual maintaining a foster family home, who is responsible for the care of a foster child;

~~19.~~ 21. "Foster placement" means a child-placing agency or foster family home providing foster care services;

~~20.~~ 22. "Group home" means a residential facility housing no more than twelve children with a program which emphasizes family-style living in a homelike environment. ~~Said~~ Such group home may also offer a program within the community to meet the specialized treatment needs of its residents;

~~21.~~ 23. "Independent living program" means a program specifically designed to assist a child to enhance those skills and abilities necessary for successful adult living. An independent living program may include, but shall not be limited to, minimal direct staff supervision, and supportive services to assist with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

~~22.~~ 24. "Institution" means a residential facility offering care and treatment for more than twenty residents;

~~23.~~ 25. "Investigation" means a mandatory preadjudicatory process by the Department to determine the safety of a child and to make a recommendation to the district attorney as to whether a petition should be filed alleging a child to be a deprived child or whether other nonadjudicatory alternatives are available;

~~24.~~ 26. "Kinship care" means full-time care of a child by relatives, members of the relative's clan, stepparents, or other adults who have an existing bond with the child and to whom have been ascribed a family relationship role with the child's parents and the child;

~~25.~~ 27. "Legal guardianship" means a judicially created relationship between a child and a caretaker which is intended to be permanent and self sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- a. protection,
- b. education,
- c. care and control,
- d. custody, and
- e. decision making.

The term "legal guardian" means the caretaker in such a relationship;

28. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

~~26.~~ 29. "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

~~27.~~ 30. "Near death" means a child is in serious or critical condition, as certified by a physician;

31. "Out-of-home placement" means a placement, other than a placement in the home of the parent or guardian from whose custody the court has removed the child, until the child is reunified with the child's parents;

~~28.~~ 32. "Person responsible for a child's health or welfare" includes a parent; a legal guardian; custodian; a foster parent; a

person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of this title; or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

~~29.~~ 33. "Preliminary inquiry" means an assessment and determination as to whether there is sufficient information to proceed with an investigation of abuse or neglect of a child or an investigation of failure to protect by the person responsible for the child when there are allegations of abuse or neglect;

~~30.~~ 34. "Permanent custody" means court-ordered custody of an adjudicated deprived child whose parental rights have been terminated;

~~31.~~ 35. "Protective custody" means custody of a child taken pursuant to Section 7003-2.1 et seq. of this title;

~~32.~~ 36. "Relative" means a grandparent, great grandparent, brother or sister of whole or half blood, aunt, uncle or any other person related to the child within the fourth degree of consanguinity;

~~33.~~ 37. "Residential child care center" means a twenty-four-hours-a-day residential group care facility at which a specified number of children, normally unrelated, reside with adults other than their parents;

~~34.~~ 38. "Responsible adult" for purposes of the release of a child from protective custody, means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in another person's absence who is eighteen (18) years of age or older;

~~35.~~ 39. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the

facility are subject to the exclusive control of the staff of the facility, whether or not the juvenile being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;

~~36.~~ 40. "Serious bodily injury" means an injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty;

41. "Temporary custody" means court-ordered custody of an adjudicated deprived child;

42. "Therapeutic foster home" means a foster family home which provides specific treatment services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home;

~~37.~~ 43. "Torture" means to inflict extreme emotional or physical pain for the purpose of terrorizing a child and causing ongoing psychological consequences;

44. "Training school" means an institution maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juvenile delinquents;

~~38.~~ ~~"Temporary custody" means court-ordered custody of an adjudicated deprived child;~~

~~39.~~ 45. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. ~~Said~~ Such program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

~~40.~~ 46. "Treatment and service plan" means a written document which includes at least the following:

- a. a description of the type of home or facility in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child, and
- b. a plan for assuring that the child receives proper care and that services are provided to the parents, child, and placement providers in order to improve the conditions in the parents' home, facilitate return of the child to the child's own home or to an alternate permanent placement, and address the needs of the child while in out-of-home care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

SECTION 4. AMENDATORY Section 13, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7003-2.4), is amended to read as follows:

Section 7003-2.4 A. 1. The parent or legal guardian of ~~the~~ a child shall be given immediate notice of the protective custody of ~~the~~ a child whenever possible by the peace officer or the court.

2. The parent or legal guardian of ~~the~~ a child shall be given prior adequate notice of the date, time, place, and purpose of any hearing by the court.

B. 1. Within the next two (2) judicial days following ~~the~~ a child being taken into protective custody, and thereafter at such intervals as may be determined by the court, the court shall conduct a hearing to determine whether ~~the~~ a child should remain in protective custody or be released to the parent, guardian, legal

custodian, or another responsible person pending further proceedings pursuant to this chapter.

2. At the hearing provided for in this subsection, the court shall advise the parent or legal guardian of ~~the~~ a child in writing of:

- a. the procedure which will be followed with regard to determining custody of the child,
- b. the right of the parent or guardian to testify and present evidence at court hearings,
- c. the right to be represented by an attorney at court hearings,
- d. the consequences of failure to attend any hearings which may be held, and
- e. the right and procedure for appealing the finding of a court on custody issues.

3. After a hearing pursuant to this subsection, the court may release an alleged deprived child from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child. The court shall determine whether the allegations regarding ~~the~~ a child are such that additional time for the filing of a petition for a deprived child proceeding is warranted.

C. Except as otherwise provided by this section, no preadjudicatory custody order shall remain in force and effect for more than thirty (30) days. The court for good and sufficient cause shown may extend the effective period of such an order for an additional period pursuant to this part not to exceed sixty (60) days. No preadjudicatory custody order shall be extended beyond the additional period provided by this subsection absent a showing that such further extension is in the best interests of the child.

D. In scheduling hearings, the court shall give priority to proceedings in which a child is in emergency custody.

E. No order of the court providing for the removal of a child alleged or adjudicated deprived from the home of such child shall be entered unless the court makes a determination that the continuation of the child in ~~his~~ the child's home is contrary to the welfare of the child. ~~Said~~ Such order shall further include either:

1. A determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from ~~his~~ the child's home; or

2. A determination as to whether or not an absence of efforts to prevent the removal of the child from ~~his~~ the child's home is reasonable under the circumstances, if such removal of the child from ~~his~~ the child's home is due to an alleged emergency and is for the purpose of providing for the safety of the child.

F. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, a child's health and safety shall be the paramount concern; provided, however, reasonable efforts shall not be required if the court determines or has previously determined that the parent has:

1. Abandoned, tortured, chronically abused or sexually abused a child;

2. Committed murder or voluntary manslaughter of another child of the parent, or aided, abetted, attempted, conspired or solicited such a murder or manslaughter;

3. Committed a felonious assault that resulted in serious bodily injury to a child or another child of the parent; or

4. Had his or her parental rights to a child involuntarily terminated.

G. If the court makes a determination that reasonable efforts are not required pursuant to the provisions of subsection E of this section, a permanency hearing shall be held for the child within thirty (30) days after the determination. At such permanency hearing, and each hearing thereafter, the court shall determine

whether reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and complete whatever steps are necessary to finalize the permanent placement of the child.

H. Nothing herein shall be construed as prohibiting reasonable efforts being made to place a child for adoption or with a legal guardian concurrently with reasonable efforts to preserve or reunify the family.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.3), is amended to read as follows:

Section 7003-5.3 A. An individual treatment and service plan shall be filed with the court within thirty (30) days after ~~the~~ a child has been adjudicated to be deprived.

B. The plan shall be filed by the Department of Human Services or the agency responsible for the supervision of the case, or by the Department or the agency or licensed child care facility having custody of the child if the child has been removed from the custody of its lawful parent or parents.

C. The treatment and service plan shall be based upon a comprehensive assessment and evaluation of the child and family. The plan shall be:

1. Developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child;

2. Written simply and clearly in English. If English is not the principal language of the child's parent, guardian, or custodian and such person is unable to read or comprehend the English language, to the extent possible the plan shall be written in such person's principal language;

3. Subject to modification based on changing circumstances consistent with the correction of the conditions that led to the adjudication of the child; and

4. Reasonable, accurate, and in compliance with the requirements of other court orders.

D. The individual treatment and service plan shall include but not be limited to:

1. A history of the child and family, including identification of the problems leading to the deprived child adjudication. The statement of the conditions leading to the adjudication shall include a statement of the methods to be used to correct those conditions or to achieve permanent placement of the child;

2. Identification of the specific services to be provided to the child, including, but not limited to, educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide safe and proper care of the child or to prevent further harm to the child;

3. A tentative schedule of the frequency of services or treatment and the means by which delivery of the services or treatment will be assured or, as necessary, the proposed means by which support services or other assistance will be provided to enable the parent or the child to obtain the services or treatment;

4. The name and location of the service provider;

5. The name of the social worker assigned to the case;

6. If the child is placed outside the home:

a. the services to be provided during and after any such placement,

- b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,
- c. the services to be provided to the child to ensure safe and proper care while in such placement and the projected date of discharge,
- d. the services necessary to assist the child to reintegrate with the child's family or other community-based placement and a description of acts by and conduct that is expected of the parent or parents, legal guardian, legal custodian, or stepparent or other adult person living in the home that would alleviate the conditions that resulted in the removal of the child before the child can be returned to a safe home,
- e. if the child is sixteen (16) years of age or older, the services necessary to make the transition from foster care or other community placement to independent living,
- f. a description of the permanency goal for the child, including the type of placement,
- g. a description of the type of safe and proper placement in which the child is to be placed,
- h. a description of the initial support obligation to the child, as determined by the court,
- i. a description of the visitation rights and obligations of the parent or parents during the period the child is in care, and
- j. a discussion of the safety and appropriateness of the child's placement, which placement is intended to be in the least restrictive and most family-like setting

available, consistent with the best ~~interest~~ interests
and special needs of the child and in as close
proximity as possible to the child's home;

7. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan including, but not limited to, time frames for achieving objectives and addressing the identified problems;

8. A projected date for the completion of the treatment and service plan; ~~and~~

9. The name and business address of the attorney representing the child, if any; and

10. In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the Department is taking to:

- a. find an adoptive family or other permanent living arrangement for the child,
- b. place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and
- c. finalize the adoption or legal guardianship.

Such documentation shall include child specific recruitment efforts such as the use of state, regional and national adoption exchanges including electronic exchange systems.

E. The individual treatment and service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

F. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act, the individual treatment and service plan shall be amended as necessary and appropriate, including, but not limited to, identification of the treatment and services to be provided to the child and ~~his~~ the child's family upon discharge of the child from inpatient mental health treatment.

G. In addition to the information required pursuant to subsection A of this section, when a child born in a condition of dependence on a controlled dangerous substance has been removed from the home, the Department of Human Services, subject to court approval:

1. May require, as part of the treatment and service plan, that the mother of such child complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to ~~the~~ a safe home;

2. May require, as part of the treatment and service plan, that the father of the child, legal guardian, legal custodian, stepparent or other adult person living in the home who is a drug-dependent person, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, and whose conduct has contributed to the dependency of such child or mother on the controlled dangerous substance, or to the conditions which caused the child to be adjudicated deprived, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home; and

3. May require testing for substance abuse of the mother, father, legal guardian, legal custodian, stepparent or other adult person living in the home, on a monthly basis for a twelve-month

period following completion of the substance abuse program and after return of the child to ~~the~~ a safe home. A positive test of any such person shall be presented to the Department of Human Services and the district attorney.

H. Testing ordered by the court pursuant to subsection ~~F~~ G of this section shall be admissible only for the purposes of deprived child and custody proceedings.

I. The services delineated in the individual treatment and service plan shall be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the return of the child to ~~the~~ a safe family home, or to facilitate the permanent placement of the child. The plan shall focus on clearly defined objectives and shall provide the most efficient path to quick reunification or permanent placement. To the extent possible, the plan shall contain outcome based evaluation criteria that measure success in the reunification or permanent placement process.

J. In the event that the parents are unwilling to participate in the development or implementation of the individual treatment and service plan, the Department shall document such unwillingness in writing to the parent and shall file the document with the court.

K. The parents and any foster parents shall be each provided a copy of the treatment and service plan approved by the court.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 3, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.4), is amended to read as follows:

Section 7003-5.4 A. The court shall ensure that the following information accompanies any deprived child placed outside the child's home as soon as the information becomes available:

1. Demographic information;
2. Strengths, needs and general behavior of the child;

3. Circumstances which necessitated placement;

4. Type of custody and previous placement;

5. Pertinent family information including, but not limited to, the names of family members who are and who are not, by court order, allowed to visit the child and the child's relationship to the family which may affect placement;

6. ~~Important~~ Relevant, known, important life experiences and relationships which may significantly affect the child's feelings, behavior, attitudes or adjustment;

7. Whether the child has third-party insurance coverage which may be available to the child;

8. Education history to include present grade placement, last school attended, and special strengths and weaknesses. The Department of Human Services shall also assist the foster parents in getting the foster child's school records and gaining school admission; and

9. Known or available medical history including, but not limited to:

- a. allergies,
- b. immunizations,
- c. childhood diseases,
- d. physical handicaps,
- e. psycho-social information, and
- f. the name of the child's last doctor, if known.

B. When the Department of Human Services places a child in out-of-home care, the Department shall provide the placement providers with sufficient medical information to enable the placement providers to care for the child safely and appropriately. Such medical information shall include, but not be limited to:

1. Any medical or psychological conditions;

2. Diseases, illnesses, accidents, allergies, and congenital defects;

3. The child's Medicaid card, if any; and

4. Immunization history.

C. 1. When the Department places a child in out-of-home care, the placement providers may request the Department to provide contagious or infectious screening examinations or tests on the child and provide the results to such placement providers.

2. The Department shall provide for the examinations or tests on the child in accordance with rules promulgated by the Commission for Human Services and based on the Centers for Disease Control guidelines for time and frequency of testing, and shall, for a child, regardless of age, in the Department's emergency or temporary custody, obtain the parental consent or, if parental consent cannot be obtained due to refusal or inability to locate, the Department shall have the authority to give consent for such examinations or tests and the release of such results to the placement providers. Any parental consent received by the Department, pursuant to the provisions of this section, shall also apply to any future examinations or tests and release of such results as deemed necessary by the Department upon the request of the placement providers. The Department has the authority to consent to the examinations or tests and the release of such test results for a child, regardless of age, in the Department's permanent custody.

3. The Department may also designate other persons who may request the performance of such examinations or tests on the child, including, but not limited to, Department employees, direct caregivers and physicians.

D. The Department or child-placing agency throughout the child's placement shall inform the foster parent of any costs and expenses related to providing foster care services for the child for which the foster parent may be eligible for reimbursement.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 1116, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last

amended by Section 5, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.5), is amended to read as follows:

Section 7003-5.5 A. The following kinds of orders of disposition may be made in respect to wards of the court pursuant to a deprived child proceeding:

1. The court may place the child under supervision by the Department of Human Services in the child's own home, or in the custody of a suitable person elsewhere. The court may require the parent or other person to comply with such conditions as the court may require and to give security by bond, with surety or sureties approved by the court, for compliance with such order.

2. If it is consistent with the welfare of the child, the child shall be placed with the child's parent or legal guardian, but if it appears to the court that the conduct of such parent, guardian, legal ~~guardian~~ custodian, stepparent or other adult person living in the home has contributed to such deprivation, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from becoming or continuing to be deprived. Such order shall remain in effect for a period of not more than one (1) year to be specified by the court, and the order may be extended or renewed by the court.

3. The court may place the child in the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In placing a child in a private institution or agency, the court shall select one that is licensed by the Department or any other state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever the court shall place a child in any institution or agency,

it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

4. The court may order the child to receive counseling or other community-based services as necessary.

5. The court may place the child in the custody of the Department.

6. If the child has been placed outside the home, and it appears to the court that the parent, guardian, legal custodian, ~~or~~ stepparent, or other adult person living in the home has contributed to the deprivation of the child, the court may order that the parent, guardian, legal custodian, stepparent, or other adult living in the home be made subject to any treatment or placement plan prescribed by the Department or other person or agency receiving custody of the child.

7. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, the court may dismiss the petition and terminate its jurisdiction at any time for good cause shown when in the best interests of the child.

8. The court may order a child's permanent care and custody transferred to another person upon the written consent of the parents of the child.

- a. Prior to the entry of an order transferring the permanent care and custody of a child, the court shall receive an investigation and report regarding the background and home of the prospective custodian. Such investigation and report of the prospective custodian shall be made pursuant to the requirements of the Oklahoma Adoption Act. The Department of Human Services shall not be required by the court to make

the home study and report as specified by this paragraph.

- b. Upon the entry of an order providing for the transfer of the permanent care and custody of a child, the order shall remain in full force and effect until:
 - (1) the child reaches the age of eighteen (18) years, or
 - (2) the parent who consented to the transfer of the permanent care and custody of the child petitions the court for the recovery of the child and the court finds after evidentiary hearing:
 - (a) the child has been abused or neglected while in the care and custody of the custodian, and
 - (b) it is in the best interests of the child that custody of the child be returned to the parents, or
 - (3) the district attorney, attorney for the child, or custodian petitions the court for modification of the order transferring permanent care and custody and the court finds after evidentiary hearing that it is in the best interests of the child for the order to be modified.
- c. An order providing for the transfer of the permanent care and custody of a child:
 - (1) shall require that the placement be reviewed within one (1) year after transfer, and
 - (2) shall not require periodic reviews by the court thereafter if the parties agree that such reviews are not necessary to serve the best interests of the child.

B. 1. In any dispositional order removing a child from the home of the child, the court shall make a determination as to whether, in accordance with the best interests of the child, reasonable efforts have been made to provide for the safe return of the child to the child's own home, ~~or that efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.~~ In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health and safety shall be the paramount concern. If continuation of reasonable efforts is inconsistent with the permanency plan for the child, the court shall determine whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

2. Reasonable efforts shall not be required however, if the court determines or has previously determined, that the parent has:

- a. abandoned, tortured, chronically abused or sexually abused the child,
- b. committed murder or voluntary manslaughter of another child of the parents or aided, abetted, attempted, conspired or solicited such a murder or manslaughter,
- c. committed a felonious assault that resulted in serious bodily injury to the child or another child of the parents, or
- d. had parental rights to a sibling involuntarily terminated.

C. 1. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a

private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

2. In any dispositional order involving a child age sixteen (16) years or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition from out-of-home care to independent living.

D. 1. No child who has been adjudicated deprived upon the basis of noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child.

2. A deprived adjudication based solely upon repeated absence from school shall not constitute a ground for termination of parental rights.

E. The court shall not terminate the rights of a parent who has not been notified that the parental rights might be terminated. If the court terminates the rights of a parent and places the child with an individual or agency, the court may invest in such individual or agency authority to consent to the adoption of the child. Provided, that where the court places the child with the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning ~~said~~ such child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate upon final decree of adoption.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 1116.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.6), is amended to read as follows:

Section 7003-5.6 A. 1. Every disposition order regarding a child adjudicated to be deprived shall be reviewed by the court at least once every six (6) months until such time as the conditions which caused the child to be adjudicated have been corrected or the parental rights of the parent or parents are terminated and a final adoption decreed.

2. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until the court terminates jurisdiction.

3. No later than twelve (12) months after ~~placing~~ a child is considered to have been placed in an out-of-home placement or thirty (30) days after a determination by the court that reasonable efforts are not required pursuant to the provisions of subsection E of Section 7003-2.4 of this title, the court shall conduct a permanency hearing to consider, in the best interests of the child, whether:

- a. the child should be returned to the child's parents ~~or other family member,~~
- b. the child should be ~~continued in out-of-home placement for a specified period. If returning home remains the plan for the child, the court must find that the parent has made marked progress towards reunification with the child, the parent has maintained a close and positive relationship with the child and the child is likely to return home within the near future~~ placed in a planned permanent living arrangement if the Department has documented a compelling reason for the court to determine that it would not be in the best

interests of the child to return home, or be placed
for adoption or with a legal guardian,

- c. the state will file a petition to have the rights of
the parents of the child ~~should be~~ terminated and the
child placed for adoption or referred for legal
guardianship, or
- d. if the child, ~~because of exceptional circumstances,~~
~~should remain in foster care on a long-term basis as a~~
~~permanent plan or with a goal of independent living~~
has been placed in an out-of-state placement, the
placement continues to be safe and appropriate and in
the best interests of the child.

4. A child is considered to have been placed in out-of-home
care, for purposes of this section and setting of the date of the
twelve-month permanency hearing, the earlier of the date of the
adjudication or the date that is sixty (60) days after the child is
removed from the home. The provisions of this section shall also
apply to a child who has been removed from the home of the lawful
parent or parents of the child after the child has been returned to
that home until such time as the court orders the case closed.

B. The court may set a case for a review hearing upon the
motion of a party at any time, if the hearing is deemed by the court
to be in the best interests of the child.

C. ~~Notice~~ In addition to the parties, notice of ~~dispositional
and permanency and review hearings and an opportunity to be heard at
such hearings~~ shall be ~~served~~ provided by the court ~~upon the parties
and upon~~ to the present ~~foster parent or foster parents entitled to
participate pursuant to Section 7208 of this title, each of whom
shall be entitled to participate pursuant to the Oklahoma Foster
Care and Out-of-Home Placement Act~~ of a child and to any preadoptive
parent or relative providing care for the child. Such notice and
opportunity to be heard shall not be construed as requiring any

foster parent, preadoptive parent or relative to be made a party to such action.

D. In addition, the court shall:

1. ~~Consider~~ Determine the safety of the child and consider fully all relevant prior and current information including, but not limited to, the report or reports submitted pursuant to Sections 7208 and 7003-5.6a of this title;

2. Determine whether the parties have complied with, performed, and completed each and every term and condition of the treatment and service plan which was previously court ordered and project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship;

3. Inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct additional services be provided if necessary to ensure the safety of the child and to protect the child from further physical, mental, or emotional harm or to correct the conditions that led to the adjudication;

4. Make a determination:

- a. as to whether reasonable efforts have been made to provide for the return of the child to the child's own home. In determining reasonable efforts, the child's health and safety shall be the paramount concern. If the court ~~finds~~ determines or has previously determined that reasonable efforts ~~have been made but have failed or are no longer feasible, the court shall make a determination that reasonable efforts are being made to secure an alternate~~ are not required pursuant to the provisions of subsection E of Section 7003-2.4 of this title or that continuation of reasonable efforts is inconsistent with the permanency plan for the child, the court shall determine if reasonable

efforts are being made to place the child in a timely manner in accordance with the permanency plan and to complete steps necessary to finalize permanent placement for the child, and

- b. where appropriate, when the child is sixteen (16) years of age or older, whether services are being provided that will assist the child in making the transition from foster care to independent living; and

5. Order such modification to the existing service plan as the court determines to be in the best interests of the child and necessary for the correction of the conditions that lead to the adjudication of the child.

E. If it is determined that the child should be placed for adoption, foster parents may be considered eligible to adopt the child, provided the foster parents meet established eligibility requirements. If the child has resided with a foster parent for at least one (1) year, the court shall give great weight to the foster parent in the adoption consideration for the child unless there is an existing emotional bond with a relative of the child by blood or marriage who is willing, able and eligible to adopt the child.

SECTION 9. AMENDATORY Section 3, Chapter 306, O.S.L. 1993, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7005-1.4), is amended to read as follows:

Section 7005-1.4 A. Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

- 1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including

but not limited to guardians ad litem appointed by the court, postadjudicatory review boards, court-appointed special advocates, and members of the Child Death Review Board;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against children, or upon their request in their official capacity as advisor to a grand jury proceeding;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or representing a child pursuant to the laws relating to child abuse and neglect. Said attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

4. Employees of juvenile bureaus in the course of their official duties;

5. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or federally recognized Indian tribe in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

7. The Office of Juvenile Affairs;

8. Persons and agencies authorized by Section 7005-1.7 of this title;

9. Members of multidisciplinary teams or multidisciplinary personnel designated by the Department of Human Services, investigating a report of known or suspected child abuse or neglect

or providing services to a child or family which is the subject of the report;

10. A physician who ~~has before him~~ sees a child whom the physician reasonably suspects may be abused or neglected, or any health care or mental health professionals involved in the evaluation or treatment of the child, the child's parents, guardian, legal custodian or other family members;

11. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of child abuse or neglect, provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

12. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child;

13. A parent or guardian of the child who is the subject of such records; provided that records pertaining to any alleged or adjudicated abuse or neglect of said child shall not be inspected or disclosed pursuant to this paragraph;

14. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct such research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents

generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

15. A foster parent, with regard to records concerning the social, medical, psychological or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent;

16. The Governor or to any person the Governor designates, in writing, and any federal official of the United States Department of Health and Human Services;

17. The Oklahoma Health Care Authority;

18. Any member of the Legislature approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate; ~~and~~

19. Any person or agency authorized to receive any paper, record, book or other information pursuant to the Oklahoma Adoption Act pertaining to a child who is the subject of an adoption proceeding or the parents, grandparents or relatives of such child; and

20. Employees of the Department of Corrections in the performance of their official duties concerning pre-sentence investigations or supervision of a parent of an alleged or adjudicated deprived child or the legal guardian, legal custodian or any other adult member of the child's home who is responsible for the care of the child.

B. In accordance with the rules adopted for such purpose pursuant to Section 620.6 of this title, records may be inspected and their contents disclosed without a court order to participating agencies.

C. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may

be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

E. In cases involving the death or near death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the child's death or near death, there shall be a presumption that the best interest of the public will be served by public disclosure of certain information concerning the circumstances of the investigation of the death or near death of the child and any other investigations concerning that child, or other children living in the same household. As used in this section, the term "near death" means a child is in serious or critical condition, as certified by a physician.

At any time subsequent to seven (7) days of the date the person responsible for the child has been criminally charged the Department of Human Services, the Oklahoma Commission on Children and Youth, or the district attorney may release the following information to the public:

1. A confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun;

2. Confirmation as to whether previous reports have been made and the dates thereof, the dates and outcome of any investigations or actions taken by the Department of Human Services in response to any report of child abuse or neglect, and any actions taken by the district attorney after submission of any investigative report;

3. The dates of any judicial proceedings prior to the child's death or near death, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of child abuse or neglect, and shall not identify the name of the child victim's siblings or other children living in the same household, the parent or other person responsible for the child or any other member of the household, other than the person criminally charged.

SECTION 10. AMENDATORY 10 O.S. 1991, Section 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7006-1.1), is amended to read as follows:

Section 7006-1.1 A. The finding that a child is delinquent, in need of supervision or deprived shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child in the following situations:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph 4 of subsection B of Section 60.5 of this title, who desires to terminate such parent's parental rights; provided that the court finds that such termination is in the best interests of the child; or

2. A finding that a parent who is entitled to custody of the child has abandoned it; or

3. a. A finding that:

(1) the child has been adjudicated to be deprived,
and

(2) such condition is caused by or contributed to by
acts or omissions of the parent, and

(3) termination of parental rights is in the best
interests of the child, and

(4) the parent has failed to show that the condition which led to the making of such finding has been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected.

b. The court may extend for a reasonable time the period in which such parent may show the condition has been corrected if, in the judgment of the court, such extension of time would be in the best interests of the child. The extension for a reasonable time shall be based on the child's age, emotional and developmental or health requirements, or needs.

c. During the period that the parent has to correct the condition, the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court may place the child with an individual or an agency; or

4. A finding that a subsequent child has been born to a parent whose parental rights to other children have been terminated by the court; provided, that the applicant shall show that the condition which led to the making of the finding which resulted in the termination of such parent's parental rights to the other children has not been corrected. The court may set the time in which the applicant shall show that the condition has not been corrected, if, in the judgment of the court, it is in the best interests of the child. Until the applicant shows the condition has not been corrected, the child may remain in the custody of the parent, subject to any conditions which the court may impose, or the court may place the child with an individual or an agency. As used in

this paragraph, the term "applicant" shall include, but not be limited to, a district attorney; or

5. A finding that a parent who does not have custody of the child has willfully failed to contribute to the support of the child as provided in a decree of divorce or in some other court order during the preceding year or, in the absence of such order, consistent with the parent's means and earning capacity; provided, that the incarceration of a parent shall not prevent termination of parental rights under this section; or

6. A conviction in a criminal action pursuant to the provisions of Sections 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes, the laws relating to child abuse and neglect, or a finding in a deprived child action either that:

- a. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse that is heinous or shocking to the court or that the child or sibling of such child has suffered severe harm or injury as a result of such physical or sexual abuse, or
- b. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse; or

7. A conviction in a criminal action that the parent has caused the death or near death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or

8. A finding that all of the following exist:

- a. the child has been adjudicated deprived, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has been sentenced to a period of incarceration of not less than ten (10) years, and
- d. the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the current relationship between the parent and the child and the manner in which the parent has exercised parental rights and duties in the past, and
- e. termination of parental rights is in the best interests of the child.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of parental rights; or

9. A finding that all of the following exist:

- a. the child has been adjudicated deprived, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has a mental illness or mental deficiency, as defined by Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of

adequately and appropriately exercising parental rights, duties and responsibilities, and

- d. the continuation of parental rights would result in harm or threatened harm to the child, and
- e. the mental illness or mental deficiency of the parent is such that it will not respond to treatment, therapy or medication and, based upon competent medical opinion, the condition will not substantially improve, and
- f. termination of parental rights is in the best interests of the child.

Provided, a finding that a parent has a mental illness or mental deficiency shall not in and of itself deprive the parent of his or her parental rights.

B. 1. Except as otherwise provided herein, the district attorney shall file a petition to terminate the parental rights of a child's parents when:

- a. a child has been in out-of-home care under the responsibility of the state for fifteen (15) of the most recent twenty-two (22) months,
- b. the court has determined a child to be an abandoned infant,
- c. the court has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired or solicited to commit such a murder or such a voluntary manslaughter, or
- d. the court has made a determination that the parent has committed a felony assault that has resulted in serious bodily injury to the child or another child of the parent.

2. The district attorney shall not file such petition if:

- a. at the option of the state, the child is being cared for by a relative,
- b. the Department has documented in the treatment and service plan a compelling reason for determining that filing such a petition would not be in the best interests of the child, or
- c. the Department has not provided to the family of the child, consistent with the time period in the treatment and service plan, such services as the Department deems necessary for the safe return of the child to the child's home, if reasonable efforts are required to be made with respect to the child.

C. An order directing the termination of parental rights is a final appealable order.

~~C. D. A parent or guardian of a child may petition the court to terminate the parental rights of a parent or the parents of a child for any of the grounds listed in paragraphs 1, 2 or 5 of subsection A of this section. A prior finding by a court that a child is delinquent, deprived or in need of supervision shall not be required for the filing of such petition by the parent or guardian~~ The provisions of this section shall not apply to adoption proceedings and actions to terminate parental rights which do not involve a petition for deprived status of the child. Such proceedings and actions shall be governed by the Oklahoma Adoption Code.

E. A child is considered to have entered into an out-of-home placement, for purposes of this section and calculation of the fifteen-month time period, beginning the earlier of the date of the adjudication or the date that is sixty (60) days after the child is removed from the home.

SECTION 11. AMENDATORY 10 O.S. 1991, Section 60.29, as renumbered by Section 59, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7510-1.5), is amended to read as follows:

Section 7510-1.5 A. When a parent or parents are found and approved for adoption of a child certified as eligible for subsidy, and before the final decree of adoption is issued, there must be a written agreement between the family entering into the subsidized adoption and the Department of Human Services. Adoption subsidies in individual cases may commence with the adoption placement or at the appropriate time after the adoption decree, and shall be based on the needs of the child as well as the availability of other resources to meet the child's needs. The subsidy may be for special services only, or for money payments, and either for a limited period, or for a long term, or for any combination of the foregoing. The amount of the time-limited or long-term subsidy may in no case exceed that which would be allowable from time to time for such child under foster family care, or, in the case of a special service, the reasonable fee for the service rendered.

B. When a child is determined to have a causative, preexisting condition which was not identified or known prior to the legal adoption and which has resulted in a severe medical or psychiatric condition that requires extensive treatment, hospitalization, or institutionalization, an adoption subsidy may be approved. Upon the approval of the subsidy, the adoptive parents shall also be entitled to receive retroactive subsidy payments for the two (2) months prior to the date such subsidy was approved.

C. Any child who met the requirements of the provisions of Section 7510-1.2 of this title, and was determined eligible for Oklahoma adoption assistance payments with respect to a prior adoption, and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have

died, shall be eligible for Oklahoma adoption assistance payments with respect to any subsequent adoption.

D. When subsidies are for more than one (1) year, the adoptive parent or parents shall present an annual sworn certification that the adopted child remains under their care and that the conditions that caused the child to be certified continue to exist. The adoptive parent or parents shall at all times keep the Department of Human Services informed of circumstances which would make them ineligible for such assistance payments or eligible for assistance payments in a different amount. The Department of Human Services is authorized and directed to make a review of each subsidy annually to assure that the parents are fulfilling their contract obligations. No payment may be made to any parents with respect to any child who has attained the age of eighteen (18) years, except where the state determines that the child has a physical or mental handicap which warrants the continuation of assistance until the child reaches the age of twenty-one (21) years. Termination or modification of the subsidy agreement may be requested by the adoptive parent or parents at any time. No payment may be made to adoptive parents if the Department determines that the parents are no longer legally responsible for the support of the child or that the child is no longer receiving any support from such parents.

~~D.~~ E. A child who is a resident of this state when eligibility for subsidy is certified shall remain eligible and receive subsidy, if necessary for adoption, regardless of the domicile or residence of the adopting parent or parents at the time of application for adoption, placement, legal decree of adoption or thereafter.

~~E.~~ F. All records regarding subsidized adoption shall be confidential and may be disclosed only in accordance with the provisions of the State Adoption Act.

SECTION 12. This act shall become effective November 1, 1998.

Passed the Senate the 11th day of March, 1998.

President of the Senate

Passed the House of Representatives the ____ day of
_____, 1998.

Speaker of the House of
Representatives